

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
December 18, 2008**

Members Present

Tom McGuirk, Chairman
John Gebhart
Vic Lessard
Bill O'Brien
Bryan Provencal

Others Present

Joan Rice, Secretary

Chairman McGuirk called the meeting to order at 7:00 p.m.

Chairman McGuirk introduced the members of the Board

The Pledge of Allegiance was said.

PETITION SESSION

50-08 The continued petition of Joseph & Marcia Siracusa, Trustees of the Siracusa Nominee Trust for property located at 8-10 Haverhill Avenue seeking relief from Articles 1.3, 1.6 Definition of "Parking Space", 4.1.1, 4.5.1, 4.5.2, 4.5.3, 6.1, 6.3.1, 8.2.3, 8.2.4, 8.2.5, and 8.2.6 to renovate and make additions to existing five (5) apartment units and to add three (3) on-site parking spaces where only two (2) on-site spaces now exist. This property is located at Map 293, Lot 144 in a RB zone.

Attorney Stephen Ells, Holmes & Ells, and Joseph Siracusa came forward. Attorney Ells said that following last month's meeting they were asked to look at #8 and see if it could be pulled in the 10 foot setback. The architect tried to achieve this, but the resulting structure just wouldn't work. Attorney Ells said they are now proposing to leave #8 where it is and modify the building. There will be only four bedrooms and one unit. The patio will be completely removed. There will be one parking space. The posts which now support the deck will be replaced. There are no changes to the original proposal for #10, which is a 3-unit building. The same variances are needed as requested last time and also a variance to create a parking space. This proposal is less dense going from five units down to four.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Mr. O'Brien asked if the new parking space for #8 will go where the patio deck, which will be eliminated, currently is. Attorney Ells said yes and the only deck will be upstairs.

Chairman McGuirk suggested putting a gate in to prevent people from walking between the two buildings. He said this is not a requirement, just a suggestion.

Moved by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 50-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members agreed that they did.

VOTE: 5-0-0. Motion passed unanimously.

52-08 The continued petition of Puritan of Hampton, LLC for property located at 109-111 Ocean Boulevard seeking relief from Articles 1.3 and 4.5.2 to construct an addition on front of existing hotel to facilitate conversion of first floor from a hotel use to retail. The addition will be conforming except for the side setback on the south side. The site will be more conforming as the parking requirement will lessen, the existing shed in rear will be demolished increasing open space and there will be at least better compliance with the provisions of Footnote 17 to Article 4.5 as part of the renovations. This property is located at Map 290, Lot 56 in a BS zone.

Attorney Craig Soloman and Fred Blanger, contractor, came forward.

Questions from the Board

Chairman McGuirk said he was concerned that the shed that was to be removed will remain. He said if the shed was removed the petitioner could go to the Building department and build a new shed without a variance. Attorney Soloman said this is a 16 square foot variance request and they are not changing the amount of impervious surface by leaving the shed. It would be a hardship to eliminate the shed because it is used for storage of linens, etc.

Chairman McGuirk asked if the Board should listen to this petition as written with the shed coming down. Mr. Blanger said he was agreeable.

Mr. O'Brien said the plans were wrong last month and they have now been changed. Attorney Soloman said the new plans are consistent with what was originally applied for. Mr. O'Brien said the request of the Board was for a separate plot plan showing what is now there and what is proposed.

Mr. O'Brien said he was concerned about stairs encroaching on the northerly and southerly neighboring properties and asked if there were easement documents. Mr. Blanger supplied a copy of the easement for the southerly property. Attorney Soloman said this is a private matter between the neighbors.

Mr. Gebhart said there should be two plot plans to review. Mr. Provencal identified errors with the color coding on the submitted plot plan. Mr. Blanger said the plot plans in the book he passed out were correct and showed before and after plans. Chairman McGuirk said this was acceptable and they did not need certified plans.

Comments from the Audience

Attorney Peter Saari, Casassa & Ryan, came forward. He said this was not in the spirit of the ordinance. This is placing this property five inches from the property line.

Back to the Board

Mr. O'Brien said he had problems with the petitioner's written justification for the variance criteria relative to the side setback relief, 4.5.2, being sought. He noted that the proposal states incorrectly that "it is consistent with the adjoining setbacks"; the adjoining properties both have side setbacks of about 4 feet whereas the applicant wants the new construction to be inches from the southerly property line. He also indicated that the applicant states incorrectly that the parking "becomes more conforming"; while the requirement is reduced the applicant has zero parking spaces now and will not add any parking spaces. Mr. O'Brien further remarked that the applicant states incorrectly that the "proposed addition is less non-conforming than the existing structure"; the addition actually reduces the amount of open space within the setback area and thus expands the non-conforming area use.

Moved by Mr. Lessard and seconded by Mr. Gebhart, to deny Petition 52-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. Mr. Lessard, Mr. O'Brien and Mr. Gebhart said no. Mr. Provencal said he didn't know and Chairman McGuirk abstained.

VOTE: 3-0-2 (McGuirk, Provencal). Motion passed.

51-08 The postponed petition of Jacques Wasfelner thru Verne Philbrook for property located at 496 High Street seeking relief from Articles 1.3, 4.5.2 and 8.2.3 to add a roof over existing stairs. This property is located at Map 150, Lot 53 in a RB zone.

Mr. Vern Philbrook came forward. He said this petition is for the purpose of building a roof over existing stairs. Mr. Philbrook went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. Provencal and seconded by Mr. O'Brien, to approve Petition 51-08 subject to the roof extending no more than 8 feet from the building foundation.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members replied that they did.

VOTE: 5-0-0. Motion passed unanimously.

53-08 The petition of Linda Burke for property located at 17 Janet Lane seeking relief from Article 4.5.2 to install a garage which will not meet the side setback. This property is located at Map 163, Lot 50 in a RA zone.

There was no representative present for this Petition.

Moved by Mr. O'Brien, seconded by Mr. Gebhart, to postpone the hearing on Petition 53-08 until the next meeting on January 15, 2009, at which time it will be first on the Agenda.

VOTE: 5-0-0. Motion passed unanimously.

54-08 The petition of Jonathan's for property located at 415 Ocean Boulevard seeking relief from Articles 1.3 and 8.2.3 to construct a roof 10'x16' 16" over the existing rear stairway of Building One and do miscellaneous repairs and upgrades to bring existing stairway to code, where the 40 ft. multi-family setback cannot be met. This property is located at Map 265, Lot 15 in a BS zone.

Tom LaVeque, board member for Jonathan's, came forward. Mr. LaVeque went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. Lessard and seconded by Mr. Provencal, to grant Petition 54-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members replied that they did.

VOTE: 5-0-0. Motion passed unanimously.

55-08 The Estate of James Bradley for property located at 22 Manchester Street seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to replace the existing foundation increasing the height of the house by as much as two (2) feet, where the house is within the left and front setbacks. This property is located at Map 290, Lot 44 in a RB zone.

Attorney Peter Saari came forward. He said the Conservation Commission has approved this. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked to see the letter from the Conservation Commission. Attorney Saari presented the letter. Mr. O'Brien noted that there is a minor error on the plot plan.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien and seconded by Mr. Lessard, to grant Petition 55-08 with the condition that the plot plan be corrected.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members replied that they did.

VOTE: 5-0-0. Motion passed unanimously.

BUSINESS SESSION

Adoption of Minutes – November 20, 2008

Moved by Mr. Lessard and seconded by Mr. O'Brien, to approve the Minutes of November 20, 2008.

VOTE: 5-0-0. Motion passed unanimously.

There being no further business, Mr. Lessard **moved** and seconded by Mr. O'Brien, that the meeting be adjourned.

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Joan Rice
Secretary